

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mehdi Righi	Team: Squad #15	CCRB Case #: 202206926	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 10/13/2022 7:16 PM	Location of Incident: West Kingsbridge Road and Bailey Avenue	18 Mo. SOL 4/13/2024	Precinct: 52		
Date/Time CV Reported Fri, 10/14/2022 11:29 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/14/2022 11:29 AM		
Complainant/Victim	Type	Home Address			
Witness(es)	Home Address				
Subject Officer(s)	Shield	TaxID	Command		
1. PO Rolando Deleon	19336	959587	052 PCT		
Witness Officer(s)	Shield No	Tax No	Cmd Name		
1. PO James Geberth	19747	969724	046 PCT		
2. PO Evan Angels	14528	965929	046 PCT		
3. PO Joseph Giacoio	06240	966591	052 PCT		
4. PO Ariel Eusebio	19648	958565	052 PCT		
5. PO Nico Martino	06781	967595	052 PCT		
6. PO Omar Carrascotatis	00961	959534	052 PCT		
7. PO Nasser Suddah	07227	959276	052 PCT		
Officer(s)	Allegation	Investigator Recommendation			
A . PO Rolando Deleon	Abuse: Police Officer Rolando Deleon drew his gun.				
B . PO Rolando Deleon	Abuse: Police Officer Rolando Deleon threatened § 87(2)(b) with the use of force.				
C . PO Rolando Deleon	Discourtesy: Police Officer Rolando Deleon spoke discourteously to § 87(2)(b)				

Case Summary

On October 14, 2022, § 87(2)(b) filed this complaint with the CCRB via telephone.

On October 13, 2022, at approximately 7:16 PM, § 87(2)(b) and his brother, § 87(2)(b) encountered police activity at the intersection of West Kingsbridge Road and Bailey Avenue in the Bronx. Police officers stood at the center of the intersection and directed traffic. § 87(2)(b) attempted to turn left onto West Kingsbridge Road before Police Officer Ariel Eusebio from the 52nd Precinct stepped in front of their black Chevrolet SUV and instructed them to make a U-turn. § 87(2)(b) lifted his upper torso outside the front passenger window and tried to explain that flow of traffic prevented the maneuver. Police Officer Rolando Deleon from the 52nd Precinct shouted at § 87(2)(b) and began walking towards him. PO Deleon drew his firearm from his holster after opening the front passenger door and pointed it at § 87(2)(b) (**Allegation A: Abuse of Authority – Gun Drawn**, § 87(2)(g)). PO Deleon returned his firearm to its holster and engaged in a verbal dispute with § 87(2)(b). § 87(2)(b) told PO Deleon to shut up. PO Deleon replied, “Get out the car and make me shut the fuck up.” (**Allegation B: Abuse of Authority – Threat of Force**, § 87(2)(g)) and **Allegation C: Discourtesy – Word**, § 87(2)(g)). Officer present at the intersection stepped between § 87(2)(b) and PO Deleon. PO Deleon stepped away from § 87(2)(b) and continued directing traffic at the intersection. There were no summonses issued or any arrests made as a result of this incident.

The investigation obtained body worn camera footage (Board Review 4 and 5).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Rolando Deleon drew his gun.

§ 87(2)(b) telephone interview was conducted on October 19, 2022. § 87(2)(b) telephone interview was conducted on November 3, 2022. PO Rolando Deleon was interviewed in-person at the CCRB on October 20, 2022.

§ 87(2)(b) and § 87(2)(b) statements were generally consistent with each other. They both stated that they observed heavy police activity as they drove south on Bailey Avenue towards West Kingsbridge Road. § 87(2)(b) attempted to make a left turn onto West Kingsbridge Road once the light turned green. § 87(2)(b) was unable to make a right onto West 225th Street because the lane was blocked by a police vehicle. PO Eusebio told § 87(2)(b) to make a U-turn. § 87(2)(b) and § 87(2)(b) told PO Eusebio that they could not make a U-turn because of the flow of vehicles turning right onto Bailey Avenue from West Kingsbridge Road. They then heard an officer beside PO Eusebio yell, “Make a U-turn.” PO Deleon emerged from behind PO Eusebio and took several steps towards § 87(2)(b) side of the vehicle. PO Deleon opened § 87(2)(b) door and pointed his gun at § 87(2)(b) torso. One of the officers that were directing traffic at the intersection stepped between § 87(2)(b) and PO Deleon. PO Eusebio instructed PO Deleon to leave. PO Deleon entered a marked 52nd PCT vehicle and drove away.

§ 87(2)(b) stated (Board Review 1) that he asked PO Deleon why he was talking to him like that and requested for PO Deleon to call his supervisor. PO Deleon replied that if there was a problem, § 87(2)(b) should step out of his car. § 87(2)(b) looked around for a supervisor but could not identify one. § 87(2)(b) proceeded to crack open his door because PO Deleon advised § 87(2)(b) to open his door if he had an issue. He intended to request assistance from a sergeant. PO Deleon pulled on § 87(2)(b) car door as he pushed it open. PO Deleon removed a black handgun from its holster and pointed at § 87(2)(b) chest once the door was fully open.

PO Deleon told § 87(2)(b) to stop reaching for something. § 87(2)(b) denied that he was reaching for anything. § 87(2)(b) asked why PO Deleon had his gun out. Unspecified officers stepped in front of PO Deleon and lowered the gun with their hands. They told him to put his gun away. § 87(2)(b) did not know precisely how long the gun was pointed at him, but he felt like it was a long time. The officers told § 87(2)(b) and § 87(2)(b) to make a U-turn and leave. § 87(2)(b) decided not to leave the scene because PO Deleon had pointed his gun at him. § 87(2)(b) asked the officers if he could speak with a supervisor. An unspecified officer “begged” § 87(2)(b) and § 87(2)(b) to move their car and leave. He repeatedly told § 87(2)(b) that the situation was not that serious and that he should make a U-turn. § 87(2)(b) explained to the officer that the situation became very serious because PO Deleon pointed his gun at him. Officers told PO Deleon to enter his vehicle and leave.

§ 87(2)(b) stated (Board Review 2) that § 87(2)(b) told PO Deleon to “shut up” when he walked towards the car. § 87(2)(b) was unsure if those were § 87(2)(b) words. PO Deleon told § 87(2)(b) to “make” him shut up. PO Deleon then opened § 87(2)(b) car door. PO Deleon pulled his black handgun from his holster and pointed it at § 87(2)(b) stomach when the door fully opened. PO2 did not point his gun at § 87(2)(b). § 87(2)(b) heard PO Deleon tell § 87(2)(b) again to “make” him. PO Deleon’s gun was pointed at § 87(2)(b) for approximately 30 seconds before 10 nearby officers got in front of PO Deleon. PO Eusebio told PO Deleon to leave.

PO Deleon stated (Board Review 3) that he was directing traffic with a group of officers at the intersection of West Kingsbridge Road and Bailey Avenue following a vehicle collision that injured several civilians and an officer. He observed a black SUV with a New Jersey plate approach the intersection. A marked police van was positioned at the front of its lane to block traffic from the direction of the black SUV. The SUV attempted to drive past the van before officers began telling the occupants to make a U-turn. PO Deleon observed two male occupants in the SUV. An officer close to PO Deleon made circularly motions with their finger to signal § 87(2)(b) to make a U-turn. PO Deleon could not recall which officer made the gesture. PO Deleon did not speak with § 87(2)(b) during the incident. § 87(2)(b) did not engage in any behavior that alarmed PO Deleon. § 87(2)(b) stuck his torso out of the window and told PO Deleon that they needed to make a turn. PO Deleon told § 87(2)(b) that he could not progress in his desired direction because the road was blocked for EMS. § 87(2)(b) asked again why they could not proceed. PO Deleon replied that the road is blocked off. PO Deleon described § 87(2)(b) demeanor as excited and aggressive during this conversation. PO Deleon was confused by his behavior because there were multiple police officers and vehicles present at the scene. § 87(2)(b) seemed unable to understand why he could not get by. § 87(2)(b) then told PO Deleon, “Shut the fuck up or I make you shut up.” PO Deleon interpreted “make you shut up” as a threat of harm. PO Deleon and PO Suddah walked towards § 87(2)(b) to ask why the SUV would not make a U-turn. PO Deleon told § 87(2)(b) that he could not drive forward. § 87(2)(b) returned his torso inside the vehicle. PO Deleon did not know what § 87(2)(b) was doing at this point. PO Deleon did not issue any commands to § 87(2)(b). § 87(2)(b) suddenly swung his passenger door fully open when PO Deleon was one foot away. PO Suddah was behind PO Deleon. PO Deleon felt threatened by this abrupt movement and could not see § 87(2)(b) hands because they were behind the door panel. PO Deleon drew his firearm. He drew his firearm because he feared for his safety. PO Deleon did not suspect § 87(2)(b) of any criminality before drew his gun. PO Deleon noted that the gun may have been pointed at § 87(2)(b) body when drew his firearm from its holster. His firearm was briefly held in front of his chest with the barrel pointed downward. PO Deleon held the gun in this position for two to three seconds. § 87(2)(b) did not exit the vehicle. PO Deleon returned his firearm to its holster when he saw that there was nothing in § 87(2)(b) hands. PO Deleon stepped back and allowed his officers to step between them to

deescalate the situation. PO Deleon described § 87(2)(b) as upset because he started shouting about PO Deleon pulling his gun out on him. The officers that spoke with § 87(2)(b) calmed his down. PO Deleon did not hear their conversation.

PO Deleon's body worn camera (Board Review 4) begins without audio. It shows him facing a black Chevrolet Tahoe SUV at 0:21. At 0:23, § 87(2)(b) lifts his upper torso out of the window and begins gesturing at PO Deleon. PO Deleon gestures with his own arms in response. PO Deleon walks toward the black SUV at 0:26. The front passenger door opens. § 87(2)(b) is seen sitting in the front passenger seat. At 0:31, PO Deleon uses his right hand to draw his handgun from its holster. The barrel is seen pointed downward towards the ground for approximately one second before PO Suddah immediately pushes PO Deleon's gun away to lower it. PO Eusebio steps in front of PO Deleon. The audio activated at 1:00. At 1:04, PO Deleon walks away from § 87(2)(b) and the black SUV. He does not interact with § 87(2)(b) for the remainder of the video.

PO Eusebio's body worn camera (Board Review 5) shows § 87(2)(b) asking PO Deleon to shoot him after the audio begins playing at 1:00. § 87(2)(b) is not heard making any verbal threats to PO Deleon prior to this timestamp. At 1:01, PO Deleon states, "Get out the car and make me shut the fuck up." § 87(2)(b) repeatedly tells PO Deleon to shoot him. At 1:06, PO Eusebio tells § 87(2)(b) to get back in the car and leave. PO Deleon is not seen interacting with § 87(2)(b) for the remainder of the video.

According to NYPD Patrol Guide procedure 221-01 (Board Review 6), drawing a firearm prematurely or unnecessarily limits a uniformed member's options in controlling a situation and may result in an unwarranted or accidental discharge of the firearm. The decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present.

It is undisputed that PO Deleon drew his firearm. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

The interaction between PO Deleon and § 87(2)(b) began because the § 87(2)(b) SUV did not make a U-turn upon reaching the intersection. PO Deleon testified that he approached the SUV to learn why the car refused to turn. § 87(2)(b) did not approach PO Deleon. The interaction between § 87(2)(b) and PO Deleon consisted of verbal communications and hand gestures up to this point. § 87(2)(b) opened his door with the intention of seeking a supervisor. PO Deleon drew his handgun while § 87(2)(b) was still seated in the vehicle. This act prompted PO Suddah to lower PO Deleon's firearm with his hand. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Rolando Deleon threatened § 87(2)(b) with the use of force.

Allegation (C) Discourtesy: Police Officer Rolando Deleon spoke discourteously to § 87(2)(b).

§ 87(2)(b)

PO Deleon stated (Board Review 3) stated that § 87(2)(b) stuck his torso out of the window and told PO Deleon that they needed to make a turn. PO Deleon told § 87(2)(b) that he could not progress in his desired direction because the road was blocked for EMS. § 87(2)(b) asked again

why they could not proceed. PO Deleon replied that the road was blocked off. PO Deleon described § 87(2)(b) demeanor as excited and aggressive during this conversation. PO Deleon was confused by his behavior because there were multiple police officers and vehicles present at the scene. § 87(2)(b) was unable to understand why he could not get by. § 87(2)(b) then told PO Deleon to “shut the fuck up or I make you shut up.” PO Deleon interpreted “make you shut up” as a threat of harm. PO Deleon and PO Suddah began walking towards § 87(2)(b) to ask why the SUV would not make a U-turn.

PO Eusebio’s body worn camera (Board Review 5) shows § 87(2)(b) asking PO Deleon to shoot him after the audio began playing at 1:00. § 87(2)(b) is not heard making any verbal threats to PO Deleon prior to this timestamp. At 1:01, PO Deleon states, “Get out the car and make me shut the fuck up.” § 87(2)(b) repeatedly tells PO Deleon to shoot him.

PO Deleon was then shown PO Eusebio’s body worn camera footage. The video began playing at 0:56 seconds. A voice is heard saying “get out of the car and make me shut the fuck up.” PO Deleon recognized this voice as his own. PO Deleon stated he was responding to § 87(2)(b) threat he made earlier. PO Deleon made the comment because tensions were high, and § 87(2)(b) was aggressive. PO Deleon did not have a specific intention behind making the comment.

According to NYPD Patrol Guide procedure 221-01 (Board Review 6), when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force.

An officer may use profanity towards a civilian while attempting to gain control over a dynamic situation. Officers are forbidden from using profanity when it serves no legitimate law enforcement purpose and is intended only to insult or belittle. PD v. Pichardo, DAO-DCT Case #2015-15012 (Board Review 7).

PO Eusebio’s body worn camera shows § 87(2)(b) asking PO Deleon to shoot him after he drew his handgun. In response, PO Deleon told § 87(2)(b) to “get out of the car and make me shut the fuck up.” § 87(2)(g)

Furthermore, PO Suddah already stepped between them before PO Deleon made the comment.

§ 87(2)(g)

PO Eusebio’s body worn camera footage captured PO Deleon telling § 87(2)(b) “Get out of the car and make me shut the fuck up.” § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)


- PO Rolando Deleon has been a member-of-service for seven years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of December 22, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (Board Review 9).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 15

Investigator: Mehdi Righi Inv. Mehdi Righi 03/01/2023
Signature Print Title & Name Date

Squad Leader:  IM Simon Wang 03/07/23
Signature Print Title & Name Date

Reviewer: _____

Signature	Print Title & Name	Date
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